IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

and
HON'BLE SRI JUSTICE M.NARAYANA REDDY

WRIT PETITION NO : 9335 of 2004

Between:

1 Gowni Srinivasu, S/o Sambaiah,
R/o Allipuram Village, Khammam (Urban) Mandal,
Khammam District.
2 Samineni Babu, S/o Kotaiah,
R/o Allipuram Village, Khammam (Urban) Mandal,
Khammam District.
3 Mandala Sreenu, S/o Sankaram,
R/o Allipuram Village, Khammam (Urban) Mandal,
Khammam District.
4 Sk.Meerambi, W/o Saidulu,
R/o Allipuram Village, Khammam (Urban) Mandal,
Khammam District.
5 Pattipati Venkata Ramaiah, S/o Satyam,
R/o Allipuram Village, Khammam (Urban) Mandal,
Khammam District.
6 Mandala Venkateswarlu, S/o Sankaram,
R/o Allipuram Village, Khammam (Urban) Mandal,
Khammam District.
7 M.Madhava Rao, S/o Rama Narsaiah,
R/o Kothagudem Village, Khammam (Urban) Mandal,
Khammam District.

8 M.Kondala Rao, S/o Rama Narsaiah,
R/o Kothagudem Village, Khammam (Urban) Mandal,
Khammam District.
9 P.Kalavathi, W/o Venkanna,
R/o Kothagudem Village, Khammam (Urban) Mandal,
Khammam District.

10 K.Tirapamma, W/o Venkatanarayana,
R/o Kothagudem Village, Khammam (Urban) Mandal,
Khammam District.
11 N.Yesu, S/o Venkaiah,
R/o Kothagudem Village, Khammam (Urban) Mandal,
Khammam District.
12 N.Venkamma, W/o Yesu,
R/o Kothagudem Village, Khammam (Urban) Mandal,
Khammam District.
13 K.Pullaiah, S/o Guravaiah,
R/o Kothagudem Village, Khammam (Urban) Mandal,
Khammam District.
14 K.Satish, S/o Venkatanarayana,
R/o Kothagudem Village, Khammam (Urban) Mandal,
Khammam District.
15 Ch.Biksham, S/o Yalamandaiah,
R/o Kothagudem Village, Khammam (Urban) Mandal,
Khammam District.
16 Ch.Ramadevi, W/o Veeraiah,
R/o Kothagudem Village, Khammam (Urban) Mandal,
Khammam District.
17 A.Santaiah, S/o Hanumanthu,
R/o Allipuram Village, Khammam (Urban) Mandal,
Khammam District.
18 A.Ramaiah, S/o Hanumanthu,
R/o Allipuram Village, Khammam (Urban) Mandal,
Khammam District.
19 M.Danaiah, S/o Pullaiah,
R/o Allipuram Village, Khammam (Urban) Mandal,
Khammam District.
20 B.Samuel, S/o Lacchanna,
R/o Allipuram Village, Khammam (Urban) Mandal,
Khammam District.
21 Sk.Madar, S/o Khasim,
R/o Allipuram Village, Khammam (Urban) Mandal,
Khammam District.
22 Ch.China Veeraswamy, S/o Amaraiah,
R/o Kothagudem Village, Khammam (Urban) Mandal,
Khammam District.
23 Ch.Peda Venkata Narayana, S/o Amaraiah,
R/o Kothagudem Village, Khammam (Urban) Mandal,
Khammam District.
24 Ch.Peda Mallaiah, S/o Amaraiah,
R/o Kothagudem Village, Khammam (Urban) Mandal,
Khammam District.

25 Ch.Pitchaiah, S/o Amaraiah,
R/o Kothagudem Village, Khammam (Urban) Mandal,
Khammam District.
26 Yerraboina Venkataiah, S/o Nagaiah,
R/o Kothagudem Village, Khammam (Urban) Mandal,
Khammam District.
27 P.Chinna Narsaiah, S/o Muthaiah,
R/o Kothagudem Village, Khammam (Urban) Mandal,
Khammam District.
28 P.Veeraiah, S/o Narayana,
R/o Kothagudem Village, Khammam (Urban) Mandal,
Khammam District.
29 P.Rangaiah, S/o Narayana,
R/o Allipuram Village, Khammam (Urban) Mandal,
Khammam District.
30 S.Ramulu, S/o Kotaiah,
R/o Allipuram Village, Khammam (Urban) Mandal,
Khammam District.
31 P.Pullaiah, S/o Narayana,
R/o Allipuram Village, Khammam (Urban) Mandal,
Khammam District.
32 G.Venkataratnam, S/o Pentaiah,
R/o Allipuram Village, Khammam (Urban) Mandal,
Khammam District.
33 S.Krishnaiah, S/o Achaiah,
R/o Allipuram Village, Khammam (Urban) Mandal,
Khammam District.
34 S.Satyam, S/o Achaiah,
R/o Allipuram Village, Khammam (Urban) Mandal,
Khammam District.
35 S.Rama Kotaiah, S/o Achaiah,
R/o Allipuram Village, Khammam (Urban) Mandal,
Khammam District.
36 S.Venkateswarlu, S/o Achaiah,
R/o Allipuram Village, Khammam (Urban) Mandal,
Khammam District.

..... PETITIONERS

AND

1 The Government of Andhra Pradesh, Revenue Department rep. by its Secretary,
Secretariat, Hyderabad.
2 The District Collector, Khammam, Khammam District.

3 The Mandal Revenue Officer, Khammam (Urban), Khammam District.
4 The Pollution Control Board, Ameerpet, Hyderabad rep. by its Commissioner.

5 Elineni Siva Kumari, W/o Ratnakar Rao,
R/o H.No.6-1-84, D.D.O.'s Colony, Bhanapuram Haveli, Khammam (Urban) Mandal,
Khammam District.
6 Elineni Jamuna Rani, W/o Venkata Ramana,
R/o H.No.6-1-84, D.D.O's Colony, Bhanapuram Haveli, Khammam (Urban) Mandal,
Khammam District.
7 Sri Venkateswara Stone Crusher Mill, Bhanapuram Haveli, Khammam (Urban) Mandal,
Khammam District rep.by its Managing Partner Kothagudem Village, Khammam (Urban) Mandal,
Khammam District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction more particularly one in the nature of "Writ of Mandamus" a) declaring the action of the respondents 1 to 3 granting License in favour of the respondents 5 to 7 for establishment of Stone Crushing Unit in Sy.No.245, Kothagudem Village, Khammam Urban Mandal, Khammam District, as illegal, arbitrary and violative of Art.21 of the Constitution of India; and b) declaring the action of the respondents 1 to 3 for establishment of Stone Crushing Unit by respondents 5 to 7 is contrary to the area of Pollution standards and affecting agricultural avocation of the petitioners, thereby hitting right to life guaranteed under Article 21 of the Constitution of India.

Counsel for the Petitioners : MR.V. AJAY KUMAR.

Counsel for the Respondent Nos. 1 to 3: GP FOR REVENUE.

Counsel for the respondent No.4: MR. S.V. BHATT.

Counsel for the respondent Nos.5, 6 and 7: MR. P. VEERA REDDY.

The Court made the following :

ORAL ORDER:

(per Hon'ble The Chief Justice)

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1. Petition is filed as public interest litigation by the residents of Allipuram and Kothagudem villages and they are seeking to declare the action of respondents 1 to 3 in granting licence in favour of respondents 5 to 7 for establishment of stone crushing unit in Sy.No.245, Kothagudem village, Khammam Urban Mandal, Khammam District, as illegal and violative of Article 21 of the Constitution of India.

2. Affidavit in reply has been filed by respondent No.5, who is also a partner of 7th respondent. It is stated that on 01.01.2004 an application for grant of quarry lease for road metal and building stone for a period of 10 years for an extent of 2 hectors in Sy.No.241 was submitted. After carrying out inspection prescribed under the rules and after due proposal submitted by the concerned authority and basing on the no objection certificate issued by the Mandal Revenue Officer, the Deputy Director of Mines and Geology, Warangal, granted quarry lease in their favour. It is stated that necessary applications for grant of permission from Factories Department, Gram Panchayat, A.P. TRANSCO, Pollution Control Board and Industries Department were submitted which are under process. It is stated that the petitioners' apprehension of any sound or air pollution is misconceived.

3. For our convenience, learned counsel for the respondent – Board has made available the inspection report of the Environmental Engineer stating that application for consent for establishment of stone crusher was returned on 31.03.2004 as the same was not meeting the guidelines for an extent of Ac.5.05 of land and thus there is no consent granted as of today. In the absence of any consent for establishment of stone crusher from the Pollution Control Board, it is not at all permissible for respondents 5 to 7 to commence their activity of crushing stones in the area in question. May be that respondents 5 to 7 might apply through a fresh application, which, of course, will have to be dealt strictly in accordance with law and in case any consent

for establishment is granted, there is no manner of doubt that such an order passed by the Pollution Control Board can be challenged by any person aggrieved before the Appellate Authority constituted under Water (Prevention and Control of Pollution) Act and Air (Prevention and Control of Pollution) Act. At the present stage, writ petition is pre-mature and we will dispose it of with direction that in case fresh application is filed by respondents 5 and 7 and any order is passed thereon by the Pollution Control Board granting consent for establishment of stone crusher, the same will be communicated to 1st petitioner herein and petitioners, if they so aggrieved, can challenge the same in accordance with law and in case application is rejected, there will be no case to make any further grievance. No costs.

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DEVINDER GUPTA. C.J.,

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M. NARAYANA REDDY. J.,

Dated: 16.12.2004.

VRK.

To

1 The Secretary to Government, Revenue Department Secretariat, Hyderabad.
2 The District Collector, Khammam, Khammam District.
3 The Mandal Revenue Officer, Khammam (Urban), Khammam District.
4 The Commissioner, Pollution Control Board, Ameerpet, Hyderabad.
5. Two CCs to G.P. for Revenue, High Court Buildings, Hyderabad (OUT).

6. Two CD copies.

HON'BLE SRI DEVINDER GUUPTA,
CHIEF JUSTICE
AND
HON'BLE SRI JUSTICE M. NARAYANA REDDY.

W.P.NO. 9335 OF 2004.

(Order of the Bench delivered by
Hon'ble The Chief Justice)

Dt: 16.12.2004.